

SUBJECT: Regulation of child labor

COMMITTEE: Employment Practices: favorable, without amendment

VOTE: 7 ayes-- Jackson, Criss, Watson, Hinojosa, Leonard, Messer, Riley
0 nays
0 present, not voting
2 absent-- Blythe, Presnal

WITNESSES: For-- Patrick Kiley, Texas Restaurant Association
Against-- None
On-- Lias B. "Bubba" Steen, commissioner of Labor and Standards

DIGEST: HB 539 would repeal most of the child-labor law (VACS arts. 5181a-5181g) and replace it with new law. It would create two categories of child laborers: those under 18 years of age and those under 14. No child under 18 could work more than 8 hours a day or 48 hours a week. No child under 14 could be employed unless the job was specifically permitted in state law or in a rule adopted by the Commissioner of Labor and Standards. Children 14 and 15 years of age could not work between 10 p.m. and 5 a.m. (12 midnight and 5 a.m. on non-school days). The Department of Labor and Standards would be given the authority to suspend the hours limitations in hardship cases.

Children under 14 would be expressly allowed to work in businesses owned and operated by their parents or guardians, in newspaper delivery, in school work-study programs, in agriculture (to be defined by the Commissioner), and in rehabilitation programs supervised by a county judge. The Commissioner of Labor and Standards could by rule allow children under 14 to work as actors and in other non-hazardous jobs, and could inspect work places, determine hazardous occupations and prohibit children from working there, and issue certificates of age. Violation of the provisions is a Class C misdemeanor.

PRO: Texas' child-labor law contains language that is archaic and ambiguous. For instance, it prohibits child labor in "workshops." HB 539 updates it.

By current law it is the responsibility of county judges to regulate child labor. They are far too busy to do so, most of them do not want the responsibility, and as a result, no

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PRO: one administers child-labor standards in many areas.
(continued) HB 539 places this responsibility with the state Commissioner of Labor and Standards.

Current law spells out specific kinds of work that children may not be employed to do. The law has not kept up with changes in industry. One hundred years ago it was heavy industry that presented the biggest health and safety danger to working children. Today, other kinds of hazards exist. HB 539 would give the Commissioner authority to determine, by rule, what kinds of jobs would be hazardous to the health and safety of children and to prohibit child labor in those jobs. This is a more reasonable approach than listing each job in statute -- and inevitably missing some.

CON: This bill unnecessarily loosens some child-labor standards and sets Texas standards that are less protective of children than federal standards. Under current state law, 14-year-old children may not work between the hours of 10 p.m. and 5 a.m., but under HB 539, children 14 and 15 years old could work up until midnight on non-school days. Furthermore, children working in jobs covered by federal law may not work between 9 p.m. and 7 a.m. And federal law limits child labor to 40 hours a week, while current Texas law and HB 539 allow 48 hours a week. There is no reason to permit some businesses to work children more than the businesses that must conform to federal standards.

Federal penalties for violating child labor standards are already much tougher than Texas', and HB 539 increases the differences. Current state penalties range from fines of \$25 to \$500 and imprisonment of up to 60 days. HB 539 changes the violation to a Class C misdemeanor -- with penalties no more than \$200, and no imprisonment.

NOTES: HB 539 repeals VACS art 5181a - 5181g, but does not change art. 5181h, which provides a penalty for parents and guardians who knowingly allow violation of the law (the penalty is equal to that for employers who violate the law). An amendment will probably be offered to include this section in the new language.

Federal child-labor provisions of the Fair Labor Standards Act apply to companies doing interstate business and those that gross more than \$250,000 per year. Among other things, it prohibits work by children 14 and 15 years old between 7 p.m. and 7 a.m. during school terms and 9 p.m. and 7 a.m. during the summer. It provides a maximum of 18 hours per week during school and 40 hours per week during the summer.

Current state law prohibits children under 17 years of age from working in mines, quarries, work places that use

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explosives, and as messengers to "immoral" places. Children under 15 are prohibited from working a factory, mill, workshop, laundry, or messenger service, if they live in cities of more than 15,000 population. No one under 15 may work more than 8 hours a day or 48 hours a week, or between the hours of 10 p.m. and 5 a.m. All children of school age may work June 1 - Sept. 1, except in prohibited work places. All children may work for a family in a private home, for their parents on their farm, or through a vocational education program.